THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.17340 of 1998

ORAL ORDER:

This writ petition is filed questioning the Award made in I.D.No.78 of 1995 dated 30.6.1997 on the file of the first respondent-Labour Court as arbitrary and illegal.

Petitioner is the management, second respondent is workman. It appears, second respondent was a Conductor in the petitioner-Corporation and while he was conducting the Bus on 8.11.1993 on the route Secunderabad Station to Bahadurpally, a check was exercised at Stage No.10 (Dhulapally) and some cash and ticket irregularities were detected i.e. the second respondent had not issued tickets to two passengers despite collecting requisite fare at the boarding point itself. Therefore, a charge sheet was issued to the petitioner and after conducting a regular enquiry, he was removed from service. Thus, he raised a dispute under Section 2A(2) of the Industrial Disputes Act, 1947 before the Labour Court. It was the case of the second respondent that the enquiry was not properly conducted and therefore, the same is vitiated. Apart from that, the charges were not proved and even assuming that the charges were proved, punishment of removal from service is disproportionate to that of the misconduct alleged against him. Petitioner-management filed a detailed counter stating that the second respondent's past conduct was not good and in spite of collecting fare at stage No.10, he failed to issue tickets to two passengers, which amounts misconduct. An enquiry was conducted and a fair and proper opportunity was given to second respondent to defend himself. It appears, second respondent filed a memo before the Labour Court under Section 11-A of the I.D. Act for dispensing with enquiry as to the validity of domestic enquiry and prayed for deciding

the matter on merits of the case. No oral or documentary evidence was adduced on behalf of workman. However, on behalf of management, Exs.M1 to M21 were marked. After a detailed consideration of the entire material placed before it, the Labour Court came to the conclusion that punishment of removal from service is disproportionate to that of the misconduct alleged against the workman, therefore, while setting aside the removal order, directed reinstatement of the workman with continuity of service, attendant benefits, but without any back wages. Aggrieved by the same, management filed the present writ petition.

It is the case of the petitioner-management that the second respondent having collected the fare at Stage No.9, failed to issue tickets to the passengers, therefore, the misconduct is proved. Further, the petitioner was suspended earlier twice for misconduct of similar nature. Therefore, the Labour Court ought not to have held that the punishment of removal from service is disproportionate to that of the misconduct alleged since the workman has not challenged the domestic enquiry and the findings of the enquiry officer.

Whereas, the learned Government Pleader supported the impugned award passed by the Labour Court and submitted that the Labour Court has not committed any error calling interference of this Court under Article 226 of the Constitution of India and the writ petition is liable to be dismissed. Further, the writ petition was dismissed for default against respondent No.2.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the impugned award and other material made available on record.

At the outset, it may be necessary to notice the charges framed against the workman, which reads as under:

“For having failed to issue tickets despite collecting the

requisite fare amount of 0.75 ps. each at their boarding point itself to a batch of two passengers who were found alighting without tickets at Dhulapally having boarded the bus at Kompally Ex-Stages 9 to 10.

For having failed to complete issuing tickets within one fare stage on route Secunderabad Station to Bahadurpalli Cross Roads".

From the above, it is seen that the only charge against second respondent-workman was that he having collected fare of 0.75 ps., did not issue tickets to two passengers who were found ticketless at Stage No.10 Dhulapally. It was the case of the respondent-workman that the Bus had not crossed one fare stage from Stage No.9 at which place, the passengers boarded the bus and check was exercised at stage No.10. If the check had taken place at stage No.11 or between 10/11, he should have been charged with such misconduct. In fact, he was in the process of issuing tickets, but that was not taken into consideration by the Enquiry Officer or the disciplinary authority. I am of the opinion that the Labour Court has rightly came to the conclusion that punishment of removal from service is disproportionate to that of the misconduct in view of the nature and under the circumstances in which the misconduct was alleged. The award under challenge is a reasoned one and does not call for interference of this Court. The writ petition is devoid of merits and is liable to be dismissed.

Accordingly, the writ petition is dismissed. No order as to costs.

C.V.RAMULU, J

Date: 25.4.2007

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IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.17340 of 1998

Dated: 25th April 2007

Between:

The Depot Manager, APSRTC,
Jeedimetla Depot,
Ranga Reddy district.

… Petitioner

and

The Labour Court-III, Hyderabad,
rep. by its Presiding Officer & another.

… Respondents